

MICHAEL LEHNERS, ESQ.  
429 MARSH AVENUE  
RENO, NEVADA 89509  
Bar No.003331  
(775) 786-1695

DOCUMENT ECF FILED ON: 4/27/10

Attorney for Debtor:

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

oOo

IN RE:

CASE NO.: 10-51480  
(Chapter 7)

ERIC PAUL CRUZE,

Debtors.

HRG. DATE: 7-21-10  
AND TIME: 2:00 p

**MOTION TO AVOID JUDGMENT LIEN**

COMES NOW Debtor, ERIC PAUL CRUZE, by and through his attorney Michael Lehnern, Esq., files the following Motion to Avoid Judgment Lien recorded by LVNV Funding, LLC. This motion is made and based upon the pleadings on file herein and the following Memorandum of Points and Authorities.

**MEMORANDUM OF POINTS AND AUTHORITIES**

The facts in this case are straightforward. The Debtor lives at the real property located at 7945 Fire Opal Lane, Reno, Nevada 89506. On April 22, 2010, the Debtor filed the pending bankruptcy case under Chapter Seven. Creditor LVNV Funding, LLC., obtained a judgment against the Debtor and recorded same on November 19, 2009 with the Washoe County Recorder's Office as Document Number 3822845. A copy of said recorded Judgment is attached hereto as Exhibit "A". On February 1, 2009, the Debtor filed a Homestead Declaration. A copy of same is attached hereto as Exhibit "B".

**ARGUMENT**

LVNV Funding's lien on the Debtor's residence is a judgment lien and it is avoidable upon motion pursuant to 11 U.S.C. §522(f), which provides as follows:

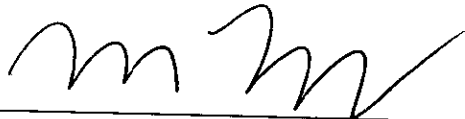
"Notwithstanding any waiver of exemptions, the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is -

(1) a judicial lien: . . .

The purpose of this statute is to allow the Debtor to obtain a fresh start by avoiding liens which impair otherwise exempt property, which is exactly the situation at hand. As previously stated, the property located at 7945 Fire Opal Lane, Reno, Nevada is exempt as the Debtor's residence and LVNV Funding's claim against them is an avoidable judicial lien.

Accordingly, the Debtor respectfully requests that this Court enter in an order avoiding said judgment lien.

DATED this \_\_\_\_ day of April, 2010



Michael Lehnert, Esq.  
Attorney for Debtor.

# **EXHIBIT "A"**

**DOC # 3822845**

11/19/2009 03:04:57 PM

Requested By

PAUL D GUGLIELMO

Washoe County Recorder

Kathryn L. Burke - Recorder

Fee: \$18.00 RPTT: \$0.00

Page 1 of 5

APN# \_\_\_\_\_

\_\_\_\_\_

JUDGMENT BY DEFAULT  
Type of Document

Recording requested by:

Guglielmo & Associates c/o Roberta Ohlinger

Return to:

Name: Roberta Ohlinger

Address: 3376 S Eastern Avenue Ste 188-A

City/State/Zip: Las Vegas NV 89169



COPY

COPY

ORIGINAL

**GUGLIELMO & ASSOCIATES**  
Roberta Ohlinger  
Nevada Bar #10946  
3376 S Eastern Avenue Ste 188-A  
Las Vegas NV 89169  
(702)989-1886  
Attorney for Plaintiff

FILED

09 SEP 11 PM 4:31

Justice Court, Reno Township  
Washoe County, Nevada

SPENCER TUTTLE  
RENO JUSTICE COURT  
BY A. Stahler  
DEPUTY

LVNV Funding, LLC.

Plaintiff,

vs.

Eric Cruze

Defendant(s).

)  
) Case No.: RJC2008053352  
)  
)  
)

**JUDGMENT BY DEFAULT**

Defendant(s) Eric Cruze, having been regularly served with Summons and Complaint, and having failed to appear, plead or answer thereto; the legal time therefore having expired, and not having been extended, the Default of the said Defendant having been duly entered according to law, upon application of said Plaintiff to the Clerk of the Court for the entry of judgment in accordance with the prayer of the Complaint and the Affidavit of the Plaintiff on file herein, and good cause appearing, it is hereby

///

///

1 ORDERED that the Plaintiff have judgment against the Defendant(s), Eric Cruze in the sum of  
2 \$2485.34 with statutory interest from the date of Judgment, together with Plaintiff's costs and  
3 disbursements in the sum of \$166.00, together with reasonable attorneys fees in the amount of  
4 \$250.

5 DATED 9/11/9

6 JUSTICE OF THE PEACE

7 Submitted By:

8 Original Signature

9  
10 Roberta Ohlinger  
11 Nevada Bar #10946  
12 3376 S Eastern Avenue Ste 188-A  
13 Las Vegas NV 89169  
14 Attorney for Plaintiff  
15  
16 ///

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## AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Default Application

(Title of Document)

filed in District Court Case No. RJC2008053352

☒ Does not contain the social security number of any person.

-OR-

☐ Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-OR-

B. For the administration of a public program or for an application  
for a federal or state grant.

  
Roberta Ohlinger

Nevada Bar #10946

Attorney for Plaintiff Lmrv Funding Llc

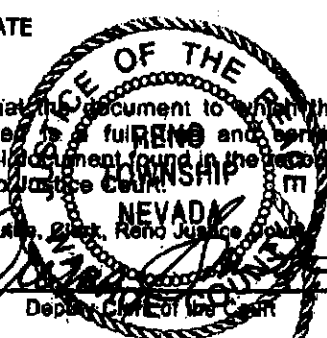
August 27, 2009

DATE

I hereby certify that the document to which this  
certificate is affixed is a full, true and correct  
copy of the original document found in the records  
or files of the Reno Justice Court.

Steve Tustin, Dist. Reno Justice Court

By:   
Deputy Clerk of the Court





## WASHOE COUNTY RECORDER

OFFICE OF THE RECORDER  
KATHRYN L. BURKE, RECORDER

1001 E. NINTH STREET  
POST OFFICE BOX 11130  
RENO, NEVADA 89520-0027  
PHONE (775) 328-3661  
FAX (775) 325-8010

### LEGIBILITY NOTICE

The Washoe County Recorder's Office has determined that the attached document may not be suitable for recording by the method used by the Recorder to preserve the Recorder's records. The customer was advised that copies reproduced from the recorded document would not be legible. However, the customer demanded that the document be recorded without delay as the parties rights may be adversely affected because of a delay in recording. Therefore, pursuant to NRS 247.120 (3), the County Recorder accepted the document conditionally, based on the undersigned's representation (1) that a suitable copy will be submitted at a later date (2) it is impossible or impracticable to submit a more suitable copy.

By my signing below, I acknowledge that I have been advised that once the document has been microfilmed it may not reproduce a legible copy.

Sandre Leon

Signature

11-11-09

Date

Sandre Leon

Printed Name



**EXHIBIT "B"**

**DOC # 3616800**

02/01/2008 12:07:32 PM

Requested By

VRISA GONZALEZ

Washoe County Recorder

Kathryn L. Burke - Recorder

Fee: \$15.00 RPTT: \$0.00

Page 1 of 2

APN:

507-55406

Recording requested by and mail documents and  
tax statements to:

Name: Erik Cruz / VRISA GONZALEZ

Address: 7945 Foxglove Ln.

City/State/Zip: Reno NV 89506

DEC107

Nevada Legal Forms & Books, Inc. (702) 870-8977

[www.legalformsonline.com](http://www.legalformsonline.com)



## DECLARATION OF HOMESTEAD

CHECK ONE



Head of Family



Multiple single persons



By Husband (filing for benefit of both)



Single, Married or Widowed



Married (filing joint declaration)



By Wife (filing for benefit of both)

CHECK ONE



HOUSE



MOBILE HOME



CONDOMINIUM UNIT



OTHER

Name on title of property:

Erik Paul Cruz

do individually and severally certify and declare that the following named persons is/are residing on  
the land premises (or mobile home, condominium unit, townhouse) as follows: VRISA GONZALEZ

Adrian Trujillo, Elisa Trujillo, BRENDEN CRUZ

located at (street address)

7945 Foxglove Ln

City of

Reno

County of

Washoe

State of Nevada,

and more particularly described as follows: SUBDIVISION: (set forth legal description and commonly  
known address)

I/We claim the land and premises hereinabove described, together with the dwelling house thereon, and its appurtenances, or the described mobile home as a Homestead.

- ☒ No former Declaration of Homestead has been made by me, us, or either of us.  
☐ This Declaration of Homestead constitutes an abandonment of the former Declaration recorded on 1/1/.

In Witness Whereof, I/We have hereunto set my hand/our hands on \_\_\_\_\_

[Signature]  
Signature of Declarant

Eric Cinze  
Print or type name here

[Signature]  
Signature of Declarant

Vrissa R Gonzalez  
Print or type name here

STATE OF NEVADA )  
COUNTY OF Washoe )

On this 28 day of Dec., 2007, personally appeared before me, a Notary Public Vrissa R. Gonzalez personally known to me to be the person(s) whose name(s) is subscribed to the above instrument who acknowledged that s he executed this instrument. Witness my hand and official seal.

[Signature]  
Notary Public

My commission expires: June 20 2009

Consult an attorney if you doubt this forms fitness for your purpose.

